

House Study Bill 60 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON HIGHFILL)

A BILL FOR

1 An Act related to city and county zoning by allowing for the
2 creation and conveyance of development rights.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.602, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 33. Record deeds for the conveyance of
4 development rights that are approved in accordance with section
5 335.3, subsection 2, or section 414.1, subsection 1A.

6 Sec. 2. Section 335.3, Code 2017, is amended to read as
7 follows:

8 **335.3 Powers.**

9 1. Subject to [section 335.2](#), the board of supervisors
10 may by ordinance regulate and restrict the height, number of
11 structures, and size of buildings and other structures, the
12 percentage of lot that may be occupied, the size of yards,
13 courts, and other open spaces, the density of population, the
14 establishment and conveyance of development rights, and the
15 location and use of buildings, structures, and land for trade,
16 industry, residence, or other purposes, and may regulate,
17 restrict, and prohibit the use for residential purposes
18 of tents, trailers, and portable or potentially portable
19 structures. However, such powers shall be exercised only with
20 reference to land and structures located within the county but
21 lying outside of the corporate limits of any city.

22 2. a. The board of supervisors may by ordinance or
23 amendment allow, regulate, or restrict the conveyance of
24 development rights, subject to this subsection and subject to
25 any contrary provisions of this chapter. Such ordinance or
26 amendment shall provide that there is created, as a separate
27 estate in land, the development rights arising from an estate
28 in land, and such development rights are declared to be
29 severable and separately conveyable by deed from the estate
30 in fee simple from which the development rights are derived.
31 Such ordinance or amendment shall require that a deed conveying
32 development rights be individually approved by at least a
33 majority vote of the board of supervisors. Any person or
34 persons, jointly or severally, aggrieved by any decision of the
35 board of supervisors under this subsection may seek judicial

1 review of the decision in the same manner as otherwise provided
2 for decisions of the board of adjustment under sections 335.18
3 through 335.22.

4 b. If a conveyance of development rights is approved by the
5 board of supervisors, the transferee shall file the deed of the
6 conveyance with the county recorder for recording. The county
7 recorder shall not accept for recording any deed conveying
8 development rights unless the board of supervisors has endorsed
9 the board's approval on the deed not more than sixty days prior
10 to the filing with the county recorder.

11 c. Development rights are not transferable across the
12 boundaries of the county or across the boundaries of a
13 city within the county, except that development rights are
14 transferable across the boundaries of counties and cities that
15 have adopted ordinances or amendments allowing the conveyance
16 of development rights and that are parties to a chapter 28E
17 agreement that specifically permits the conveyance of such
18 rights across political subdivision boundaries and provides for
19 the approval of such conveyances by at least one governing body
20 of a political subdivision that is a party to the agreement.

21 Sec. 3. Section 414.1, subsection 1, Code 2017, is amended
22 to read as follows:

23 1. For the purpose of promoting the health, safety, morals,
24 or the general welfare of the community or for the purpose of
25 preserving historically significant areas of the community, any
26 city is hereby empowered to regulate and restrict the height,
27 number of stories, and size of buildings and other structures,
28 the percentage of lot that may be occupied, the size of yards,
29 courts, and other open spaces, the density of population, the
30 establishment and conveyance of development rights, and the
31 location and use of buildings, structures, and land for trade,
32 industry, residence, or other purposes.

33 Sec. 4. Section 414.1, Code 2017, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 1A. a. The city council may by ordinance

1 or amendment allow, regulate, and restrict the conveyance of
2 development rights, subject to this subsection and subject to
3 any contrary provisions of this chapter. Such ordinance or
4 amendment shall provide that there is created, as a separate
5 estate in land, the development rights arising from an estate
6 in land, and such development rights are declared to be
7 severable and separately conveyable by deed from the estate
8 in fee simple from which the development rights are derived.
9 Such ordinance or amendment shall require that a deed conveying
10 development rights be individually approved by at least a
11 majority vote of the city council. Any person or persons,
12 jointly or severally, aggrieved by a decision of the council
13 under this subsection may seek judicial review of the decision
14 in the same manner as otherwise provided for decisions of the
15 board of adjustment under sections 414.15 through 414.19.

b. If a conveyance of development rights is approved by the city council, the transferee shall file the deed of the conveyance with the county recorder for recording. The county recorder shall not accept for recording any deed conveying development rights unless the city council has endorsed the council's approval on the deed not more than sixty days prior to the filing with the county recorder.

c. Development rights are not transferable across the boundaries of the city, except that development rights are transferable across the boundaries of cities and counties that have adopted ordinances or amendments allowing the conveyance of development rights and that are parties to a chapter 28E agreement that specifically permits the conveyance of such rights across political subdivision boundaries and provides for the approval of such conveyances by at least one governing body of a political subdivision that is a party to the agreement.

EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill relates to city and county zoning by allowing

1 cities and counties to allow, regulate, and restrict the
2 transfer of development rights.

3 Under the bill, a city or county may, by ordinance or
4 amendment, establish development rights arising from estates
5 in land as a part of the political subdivision's zoning
6 regulations. Such development rights are declared to be
7 severable and separately conveyable from the estate in fee
8 simple from which the development rights are derived.

9 The bill requires that individual conveyances of development
10 rights be approved by the city council or board of supervisors
11 that established those rights. The bill requires a transferee
12 to file a deed of conveyance with the county recorder and
13 requires the county recorder to record deeds if approved by
14 the appropriate governing body within the 60 days prior to
15 filing. The bill also requires that an ordinance establishing
16 development rights provide for judicial review of the decisions
17 of the applicable governing body.

18 The bill provides that development rights are not
19 transferable across the boundaries of the political
20 subdivision, unless the relevant political subdivisions are
21 parties to an intergovernmental agreement that specifically
22 permits the conveyance of such rights across the political
23 subdivision boundaries and provides for the approval of each
24 conveyance.